

The American Recovery and Reinvestment Act (“ARRA”) passed by Congress in January, 2009, appropriated additional federal funds for the Weatherization Assistance Program. Along with the federal funding came additional responsibilities and requirements. ARRA recipients are required to be both transparent and accountable. A listing of the various federal laws pertaining to ARRA recipients is provided below. Violations of these legal requirements can result in a recapture of federal funds, a withholding of federal funds, and, depending upon the circumstances and the violation, possible criminal penalties.

This listing of legal requirements provides merely a checklist to notify all recipients, in broad terms, of what federal laws apply. Any recipient who has any question concerning these requirements should contact either the legal department at the Kentucky Housing Corporation or at the Community Action Kentucky. As it is anticipated that further requirements will be forthcoming, each ARRA recipient should check here periodically for updates.

ARRA WEATHERIZATION LEGAL REQUIREMENTS

REPORTING REQUIREMENTS: KHC is required to provide reports on a quarterly basis. ARRA recipients will reporting to CAK/KHC in a format and a time permitting KHC to comply with the provisions of the reporting requirements found in ARRA Section 1512(c), 2 CFR 215.26, 45 CFR 74.26 and 45 CFR 92.26. The particular data elements and time period requirements are listed in each ARRA contract. For example, some data elements which must be reported include (but are not limited to) the ARRA award amount, the hours worked for jobs created/retained, equipment units purchased over \$5000, and progress in meeting the production schedule in the State Plan, etc.

DEBARMENT AND SUSPENSION: No ARRA recipient shall enter into any contracts or subcontracts with any parties debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Each ARRA recipient shall adhere to all debarment and suspension requirements under federal law, including 10 C.F.R. Section 100.113.

WAGE REQUIREMENTS: In accordance with Section 1606 of the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than the prevailing wage as provided from the United States Secretary of Labor. Payment of wages to employees shall be weekly, as required by the ARRA and the Davis-Bacon Act. Prevailing wage rates can be determined by accessing the Department of Labor’s web site at www.dol.gov.

CONFLICT OF INTEREST: A conflict of interest occurs when a government official or employee, or a recipient of ARRA funds, engages in conduct contrary to his duty to act for the benefit of the public or the agency, and instead exploits the relationship for his personal benefit, typically receiving a monetary gain. ARRA recipients must be able to certify that they do not have any ownership or financial interest in any agencies or company with which they are contracting or subcontracting, and that they do not have a personal conflict of interest caused by a parent, spouse or child being employed by such a contracting agency. Kentucky ethics rules prohibit not only engaging in any

conflict of interest, but also creating the appearance of impropriety. ARRA recipients will not violate either any conflict of interest statute, KRS 45A.330-45A.340, 45A.990, KRS 164.390, or KRS 11A.040 of the Executive Branch Code of Ethics, relating to the employment of former public servants. ARRA recipients are encouraged to become familiar with these statutes and their requirements, and they can be viewed at www.lrc.ky.gov/statrev/frontpg.htm.

PREFERENCE FOR CERTAIN ACTIVITIES: Following the guidelines provided by Section 1602 of ARRA, preference will be given to weatherization activities, including risk assessments, employee training and procurement of supplies and equipment, that can be initiated promptly upon commencement of the contract. ARRA recipients shall also seek to use grant funds in a manner that maximizes job creation and economic benefit.

SEGREGATION OF FUNDS: ARRA recipients are required to segregate obligations and expenditures of ARRA funds from all other funding. No part of ARRA funds may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under ARRA.

PROMOTING LOCAL HIRING: Where practicable, local individuals, entities and businesses will be hired to aid in provision of weatherization services.

WHISTLEBLOWER PROTECTION: ARRA recipients will comply at all times with Section 1553 of the ARRA, which prohibits discrimination against or discharge of any employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds or (2) a gross waste of ARRA funds, (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule or mandatory regulation concerning a contract or award of ARRA funds. All grantees and sub-grantees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

CIVIL RIGHTS OBLIGATIONS: Receiving federal funds mandates that recipients adhere to Title VI of the Civil Rights Act of 1964, (prohibiting race, color and national origin discrimination including language access for persons with limited English proficiency), Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination against persons with a disability), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education, training and employment programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services) and KRS Chapter 344, the Kentucky Civil Rights Act.

FALSE CLAIMS ACT: Any individual or entity failing to comply with the applicable state and federal laws governing use of ARRA funds by submitting a false claim shall be reported to the applicable authority.

CONFIDENTIALITY: ARRA recipients will comply with the provisions of the Privacy Act of 1974 and require employees to use the same degree of care as the agency uses with its own data to keep confidential information concerning client data, the business of CAK, the subcontractors or private contractors, KHC, its financial affairs, its relations

with its citizens and its employees, as well as any other information which may be specifically classified as confidential by either party in writing to the other. ARRA recipients will comply with all Federal and State Regulations and Statutes related to confidentiality that are applicable. ARRA recipients shall maintain as confidential any information acquired from the applicants or provided by any entity consistent with the requirements or KRS 194B.060, KRS 205.175 and KRS 205.177. Parties and the subcontractors shall not release such information to any person, partnership, corporation or association without the written approval of KHC or CAK. Written approval by KHC is not required for release by CAK, Service Providers, or subcontractors to state and federal investigatory authorities.

PROHIBITION ON USE OF FUNDS: None of the funds made available by ARRA shall be knowingly used for any casino or gambling establishment, aquarium, zoo, golf course, swimming pool or similar projects.

ENVIRONMENTAL IMPACT REQUIREMENTS: In accordance with ARRA, Section 1609, recipients, grantees, and sub-grantees will comply with any application environmental impact requirements of the National Environmental Protection Act of 1970 ("NEPA").

CERTIFICATION OF LOBBYING ACTIVITIES: Parties receiving ARRA funds must disclose any lobbying activities in accordance with Section 1352, Title 31, U. S. Code. No federally appropriated funds can have been paid by or on behalf of the ARRA recipient to any agency, a member of Congress, an officer or employee of Congress, in connection with the awarding of any federal contract, grant, loan or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.